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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 100804324-1265-02]

RIN 0648-XC302

Magnuson-Stevens Act Provisions; Fisheries Off West The Coast States; Pacific Coast Groundfish Fishery; Pacific Whiting and Non-Whiting Allocations; Pacific Whiting Seasons

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reapportionment of tribal whiting allocation.

SUMMARY: This document announces the reapportionment of 28,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial fishery allocations to ensure full utilization of the resource.

DATES: The reapportionment of whiting is effective from 1200 local time, October 4, 2012, until December 31, 2012, unless modified, superseded or rescinded. Comments will be accepted through [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2012-

0041 by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, enter NOAA-NMFS-2012-0041 in the search box. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- Fax: 206-526-6736, Attn: Kevin C. Duffy

- Email comments directly to NMFS, Northwest Region at: Whitingreapportionment@noaa.gov

- Mail: William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, Attn: Kevin C. Duffy.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (if submitting comments via the Federal Rulemaking portal, enter "N/A" in the relevant

required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Kevin C. Duffy (Northwest Region, NMFS), phone: 206-526-4743, fax: 206-526-6736 and e-mail: kevin.duffy@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document is accessible via the Internet at the Office of the Federal Register's Website at

<http://www.gpo.gov/fdsys/search/home.action>. Background

information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

Background

This document announces the reapportionment of 28,000 mt of Pacific whiting from the tribal allocation to the non-tribal commercial sectors on October 4, 2012. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. Regulations at 50 CFR 660.131(h) contain provisions that allow the Regional Administrator to make Pacific whiting tribal allocation specified at § 660.50 that will not be harvested by the tribal fisheries

available for harvest to other sectors of the trawl fishery. For 2012 the Washington Coast treaty tribes were allocated 48,556 mt of Pacific whiting. The best available information through October 2, 2012 indicated that less than 1,000 mt of the tribal allocation had been harvested. Approximately 28,000 mt of the 2012 tribal allocation are projected to go unharvested.

Therefore, to ensure full utilization of the resource, NMFS reapportioned 28,000 mt to the shorebased IFQ, catcher/processor and mothership sectors in proportion to each sector's original allocation on October 4, 2012. Reapportioning this amount is not expected to limit tribal harvest opportunities for the remainder of the year.

The revised Pacific whiting allocations for 2012 are: Tribal 20,556 mt, catcher/processor 55,584 mt; mothership 39,235 mt: and shorebased IFQ 68,662 mt. Emails sent directly to fishing businesses and postings on the Northwest Region's internet site were used to provide actual notice to the affected fishers.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b) (B) because such notification would be impracticable and contrary to the public interest. As previously

noted, actual notice of the reapportionment was provided to fishers. Prior notice and opportunity for public comment was impracticable because NMFS had insufficient time to provide prior notice and the opportunity for public comment between the time the information about the progress of the fishery needed to make this determination became available and the time at which fishery modifications had to be implemented in order to allow fishers access to the available fish during the remainder of the fishing season. Reapportioning as quickly as possible was necessary to allow fishers access to the available fish prior to the onset of weather conditions that would make fishing unsafe. For the same reasons, the AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3).

These actions are authorized by 50 CFR sections 660.55 (i), 660.60(d) and 660.131(h) and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq

Dated: October 25, 2012.

James P. Burgess,

Acting Deputy Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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